IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.1899 OF 2006

Sea Face Park Co-operative Housing Society Ltd. ... Petitioner.

Vs.

State of Maharashtra & Ors. ...Respondents.

....

Mr. C.U. Singh, Senior Advocate i/b. Sanjay Udeshi & Co. for the Petitioner.

Mr. Sujit Bhattacharya with Mr. Nitin G.Raut for Respondent No.3.

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CORAM : DR.D.Y.CHANDRACHUD, J.

July 24, 2006.

P.C.

The Co-operative Court dealt with an application filed by the Petitioner questioning the maintainability of a dispute instituted by the Third Respondent on the ground that it was barred by limitation. The Petitioner prayed that the issue of limitation should be heard and decided as a preliminary issue. At the hearing of these proceedings, it appears prima facie that the question of limitation in the present case does not raise a pure question of law, but would depend upon an assessment of facts. Consequently, at the hearing of these proceedings Counsel appearing on behalf of the Petitioner states on instructions that the Petitioner withdraws the application (Misc. Application No.151 of

2006 in CC Case No.II/102 of 1999) that sought a decision on the question of limitation as a preliminary issue. Both Counsel are agreed that the Co-operative Court before which the main dispute is pending, may be directed to dispose of the entire case after considering all the issues including the issue of limitation. In these circumstances, it is clarified by consent of the Counsel that the issue of limitation shall be heard and disposed of by the Co-operative Court, together with all the other issues on merits. The Co-operative Court while doing so shall not have regard to the impugned order dated 23rd June 2006 since that order does not survive in view of the statement made on behalf of the Petitioner that the application for framing the issue of limitation as a preliminary issue is withdrawn. Counsel appearing on behalf of the Third Respondent has prayed for a direction to the effect that the hearing of the dispute be expedited. It would be open to the Third Respondent to move the Co-operative Court for setting down a time schedule for expeditious disposal of the case and if such an application is made, the Co-operative Court shall endeavour to dispose it of expeditiously subject to the exigencies of its work.

The Petition is disposed of.